

REMARKS

Claims 1, 2, 8-10, 12, 13, 15, and 16 are pending and stand rejected. Claim 21 is canceled without prejudice or disclaimer. Claims 1 and 15 are amended. Support for the amendments can be found, *inter alia*, in paragraph [0017] of the Specification and FIGS. 1-3. No new matter is added herein. Applicants submit that the amendments place the application in condition for allowance or, in the alternative, in better condition for appeal, and therefore respectfully request entry of the amendments.

Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

Rejection Under 35 U.S.C. § 112

The Examiner rejects claim 21 under 35 U.S.C. § 112 as indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner objects both to a lack of antecedent basis for the term "the braid layer" and a lack of clarity as to the location of the jacket (i.e., over the first layer or the braid layer). Applicants submit that the cancellation of claim 21 renders this rejection moot, and accordingly respectfully request its withdrawal.

Rejections Under 35 U.S.C. § 103

Claims 1, 2, 8-10, 12, and 13

The Examiner rejects claims 1, 2, 8-10, 12, and 13 under 35 U.S.C. § 103 as obvious over U.S. Patent Application Publication No. 2001/0013675 to Nakagawa et al. ("Nakagawa") in view of U.S. Patent No. Re. 35,527 to Martucci ("Martucci"). To establish a *prima facie* case of obviousness, the Examiner must demonstrate some suggestion or motivation to combine one or more references, with a reasonable expectation of success, to teach each and every claimed limitation. MPEP § 2142. Applicants respectfully submit that the Examiner has failed to meet this burden with respect to the rejected claims.

Claim 1 recites that “said tubular first layer has a *substantially continuous* outer circumference.” Claim 1 (emphasis added). That is, as can be seen in FIGS. 1-3, the cross section of inner layer 12 is substantially circular and the perimeter thereof is free of any substantial discontinuities.

Nakagawa, on the other hand, teaches and clearly illustrates that the outer circumference of the pipe is grooved in order to create the multiple chambers. Nakagawa, Paragraph [0057] and FIGS. 13a to 13d (upper and lower grooves 11a create flow passages 11b). That is, Nakagawa deliberately collapses the wall of the pipe in creating flow passages 11b, thereby introducing U-shaped discontinuities in the perimeter of the pipe. Thus, even if one of ordinary skill in the art modified Nakagawa to utilize the polymeric fluorocarbon of Martucci, as suggested by the Examiner, the result would not be the present invention; the asserted combination of references simply does not teach each and every element of, and therefore cannot obviate, claim 1.

Claims 2, 8-10, 12, and 13 depend from claim 1. It is axiomatic that claims dependent upon an allowable claim are themselves allowable. E.g., MPEP § 2143.03 (citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Applicants accordingly respectfully request reconsideration and withdrawal of the rejection of claims 1, 2, 8-10, 12, and 13 under section 103.

Claims 15, 16, and 21

The Examiner rejects claims 15, 16, and 21 under 35 U.S.C. § 103 as obvious over U.S. Patent No. 5,611,373 to Ashcraft (“Ashcraft”) in view of Martucci. The rejection of claim 21 is moot in view of its cancellation. Applicants respectfully disagree with the rejection of claims 15 and 16.

Claim 15 recites “forming *an integrated* multiple compartment first layer....” Claim 15 (emphasis added). “Integrated” means that the compartments cannot be separated from the first layer. Specification, Paragraph [0017].

The Examiner asserts that Ashcraft’s layers 110 and 122 collectively constitute a multiple compartment first layer. Though Applicants respectfully contend that a *combination* of layers can not reasonably be considered “a multiple compartment first layer,” insofar as the use of ordinal terminology strongly suggests a *single* layer, it is clear that Ashcraft does not teach “an

integrated multiple compartment first layer” as recited in claim 15. Ashcraft teaches that spacers 130 may be integrally formed with *either* first layer 122 *or* inner jacket 110, Ashcraft, col. 4, lines 50-54, but nowhere even suggests, much less explicitly discloses, that they may be integrally formed with *both* first layer 122 *and* inner jacket 110. Thus, contrary to the present invention, the compartments of Ashcraft may be separated from the first layer thereof, and therefore do not constitute “an *integrated* multiple compartment first layer.”¹ The Examiner properly recognizes that Martucci does not cure this shortcoming, relying on Martucci only to teach the use of the hose assembly in an automobile by modifying the inner layer of Ashcraft to be a polymeric fluorocarbon according to Martucci. Thus, the asserted combination of references does not teach each and every element of, and consequently cannot obviate, claim 15. Claim 16, which depends from claim 15, is allowable for at least the same reasons.

In light of the foregoing, Applicants earnestly solicit reconsideration and withdrawal of the rejection of claims 15 and 16 under section 103.

¹ Applicants further note that the Examiner’s logic in regarding layers 110, 122 collectively is questionable in light of Ashcraft’s clear teaching that spacers 130 are separable from at least one of the layers.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, and request that all rejections be withdrawn, that all pending claims be allowed, and that the application be passed to issue. If, for any reason, the Examiner finds the application to be in other than condition for allowance, the Examiner is invited to contact the undersigned in an effort to resolve any matter still outstanding before issuing another action.

In the event any extensions of time are required for this paper to be considered timely, Applicants hereby make a conditional petition therefor under 37 C.F.R. § 1.136. Please charge any deficiencies in fees and credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 79287.21540.

Respectfully submitted,

BAKER & HOSTETLER LLP



Scott A. Felder
Reg. No. 47,558

Date: July 6, 2006
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036-5304
Telephone: 202-861-1500
Direct: 202-861-1545
Facsimile: 202-861-1783